

Profile and Timeline of Thurgood Marshall

I. Introduction

On June 13, 1967, Thurgood Marshall became the first African American appointed to the Supreme Court. He served as an Associate Justice on the high court for 24 years until his retirement on June 27, 1991. Some observers referred to Justice Marshall as the *conscience* of the court.



Prior to his appointment, Justice Marshall served 34 years in the legal community as the U.S. Solicitor General, U.S. Circuit Court Judge, Director of the NAACP's (National Association for the Advancement of Colored People) Legal Defense and Education Fund, and as a general practice attorney.

At the NAACP, Thurgood Marshall championed the rights of the indigent and weak. Utilizing his formidable legal skills, Marshall relied almost exclusively on Constitutional arguments and sociological appeal to close the gap between constitutional ideology and the realities of institutionalized racism that placed limits on the freedoms of African Americans. One of Marshall's law clerks once remarked that Thurgood Marshall was a man who would have had a place in history before his appointment to the high court (Goldman and Gallen, 1993).

Thurgood Marshall has often been lauded as the most influential African American of the twentieth century. He is the leader who can claim victory over government-sanctioned segregation and discrimination in public institutions. It was Marshall, Charles Houston (Chief Counsel of the NAACP) and other NAACP lawyers who proved to African Americans that justice and equality could be achieved through the interpretation and forceful advocacy of existing law. Indeed, in 1955, Martin Luther King Jr.'s victory in desegregating public transportation in Montgomery, Alabama may not have been possible without Marshall's earlier victory in the Supreme Court in *Morgan v. Com. of Virginia*, 338 U.S. 373 (1946).

All Americans owe Thurgood Marshall an enormous debt of gratitude for his leadership in valuing integration and paving the way for improved race relations in the United States. He aptly stated, “unless our children begin to learn together, there is little hope that our people will ever learn to live together” (*Milliken v. Bradley*, 418 U.S. 717, 783 (1974)).

II. Justice Marshall’s Beginnings

Thurgood Marshall was born on July 2, 1908, in Baltimore, Maryland. He was the second and youngest child of William and Norma Marshall. Marshall father, William Marshall, worked as a railroad porter and as a steward at a prestigious all white club in Baltimore. His mother, Norma, taught elementary school. William Marshall is credited with being the first African American to serve on a grand jury in Baltimore in the twentieth century.

As a youth, Marshall was rambunctious and frequently in trouble. To keep him out of trouble, his mother made him attend schools where she taught. In high school, he was required to read and recite the U.S. Constitution on several occasions as punishment for mischievous behavior. By the time he graduated from Baltimore’s Douglas High School, at age 16, he was able to recite the majority of the Constitution from memory. In college, Marshall was temporarily expelled for “hazing” underclassmen.

Marshall’s family lived close to a police station where he would hear arrestees being questioned and beaten. His father took him to the local courts to watch the outcomes of various trials. Interestingly, these experiences paved the way for Marshall’s love of law and provided a foundation for his life’s work.

Thurgood Marshall and his older brother, Aubrey, attended college. Aubrey continued to medical school and became a chest surgeon. Marshall’s mother wanted him to become a dentist, and he entered Lincoln University in Chester County, Pennsylvania (the nation’s oldest historically black college) interested in dentistry.

During Marshall’s sophomore year in college, he met Vivien “Buster” Burey, his first wife. Thurgood matured around this time. He lost interest in dentistry, married Vivien in September, his junior year, and became a star debater in the Forensic Society in his senior year at Lincoln. In June 1930, Marshall graduated from Lincoln with honors receiving an A.B. degree in Humanities.

After graduation, Marshall pursued admission to law school. His first choice was the University of Maryland Law School. Marshall’s application to Maryland was rejected because of the University’s “all-white” admission policy. So, he matriculated at Howard University Law School in Washington, D.C. It was at Howard where Marshall met Charles Hamilton Houston, then Dean of the law school. Houston was Marshall’s mentor until his death in 1950. As the Dean of the law school, Houston emphasized to Thurgood and other students that lawyers should be social engineers. It was Dean Houston who taught Marshall the strategy of using existing laws to defeat racial

discrimination. Marshall graduated from the Howard University Law School magna cum laude (first in his class) in 1933. Afterwards, he was admitted to the Maryland Bar and began a one-man private practice in the Baltimore area. Marshall represented clients in civil and criminal cases.

III. Attorney Marshall—The Birth of the Civil Rights Litigator of the 20th Century

In the early years, Marshall's practice was modest. In 1936, he accepted an offer from the NAACP to take a position as a staff lawyer (part time) after winning a major civil rights case in *Murray v. Pearson*, 182 A. 590 (Md. 1936). In this case, Marshall persuaded the Maryland State Court of Appeals to require the University of Maryland Law School to accept its first African American student—Donald Murray. (The university of Maryland was the same institution that rejected Marshall's application on the basis of race five years earlier). Marshall argued in the *Murray* case that "[w]hat's at stake here is more than the rights of my clients, it's the moral commitment stated in our country's creed" (Goldman and Gallen, 1993). He argued in a straightforward and plainspoken manner that became his hallmark style. For example, when he was asked for a definition of "equal" by Justice Frankfurter, Marshall replied, "equal means getting the same thing, at the same time and in the same place" (*Brown v. Board of Education*, 349 U.S. 294 (1955)).

In 1936, Thurgood Marshall became a full time staff lawyer at the NAACP. He immediately left his practice in Baltimore, moving to NAACP headquarters in New York City. In 1938, Charles Houston, relying heavily on a brief written by Marshall, brought the case of *Missouri ex rel. Gaines v. Canada*, 305 U. S. 337 (1938), before the U.S. Supreme Court. The case involved Missouri's refusal to admit African American students to the state university's law school, offering applicants, instead, the choice of going out of state or attending a separate African American law school yet to be established. The Court found that Gaines must be admitted to Missouri State University Law School in the absence of a comparable African American institution. The Court ruled that this was required by the "Equal Protection" clause of the Fourteenth Amendment of the U.S. Constitution. Such unequal provisions embodied in the Missouri statute barring African American admission to state-sanctioned, state-funded institutions created an unfair "privilege. . .for white law students" that was denied African Americans.

Marshall succeeded Houston as Director of the NAACP Legal Defense and Education Fund from 1940 until 1961. In this position, he traveled the country challenging the status quo of racial segregation. Marshall's life was threatened many times, and he was jailed at points.

Despite his unwavering commitment and hard work, Marshall has not always been the beloved advocate of the people as he is remembered today. In the 1940s and 1950s, the Nation of Islam, a Black separatist group, denounced his work. Malcolm X was noted for hurling insults at Thurgood Marshall when they met during this period.

Thurgood Marshall was a remarkably successful lawyer at the NAACP. He won 27 out of 33 cases argued before the U.S. Supreme Court. Some of his more recognized triumphs were:

Chambers v. Florida, 309 U.S. 227 (1940)

Marshall and his team of lawyers persuaded the Supreme Court to overturn a criminal conviction based on a coerced confession.

Smith v. Allwright, 321 U.S. 649 (1944)

Marshall convinced the Court to strike down a Texas practice which excluded blacks from participating in primary elections.

Morgan v. Virginia, 328 U.S. 373 (1946)

Marshall convinced the Court to strike down segregation on buses on routes of interstate travel).

Shelley v. Kraemer, 334 U.S. 1 (1948)

Marshall convinced the Court to overturn lower court rulings in favor of restrictive covenants which prohibited land from being sold to African Americans.

Sipuel v. University of Oklahoma, 332 U.S. 631 (1948) and *Sweatt v. Painter*, 339 U.S. 629 (1950)

Marshall persuaded the Court to require universities in Oklahoma and Texas to integrate their law schools.

Thurgood Marshall's greatest triumph was in the landmark cases *Brown v. Board of Education*, 347 U.S. 483 (1954), identified by many as the most influential case of the twentieth century. Marshall challenged the constitutionality of "separate but equal" Arguing the "Equal Protection" clause of section I of the Fourteenth Amendment of the U.S. Constitution, Marshall and his colleagues prevailed in convincing the Justices on the high Court that public school segregation was at war with the Constitution and therefore must fall. This argument was also based upon a plethora of sociological, psychological, and anthropological studies providing evidence of the potentially life-long damaging effects (to white and African American children) of state-sanctioned segregation in public education. The Court ruled unanimously in favor of Marshall's position that the "separate but equal doctrine" violated the equal protection clause and was unconstitutional.

The *Brown* case laid the legal groundwork for the civil rights movement of the 1950s and 1960s. Without the benefit of this important Supreme Court precedent, the success of the civil rights movement would have been questionable at best.

IV. Thurgood Marshall the Public Servant

As early as 1951, Thurgood Marshall was called into public service. At the request of President Truman, Marshall traveled to Japan to investigate the treatment of

African American soldiers under General Douglas MacArthur's command during the Korean War. He found blatant segregation and discrimination against African American soldiers in the United States Army.

In 1960, Marshall was asked to travel to Kenya and to England where he consulted on the constitution for the newly independent republic of Kenya. This constitution, interestingly, included safeguards to protect the liberties of the Kenyan white minority.

Marshall's career in public service officially began in 1961, when President John F. Kennedy nominated him to the U.S. Second Circuit Court of Appeals, the second African American to receive such an appointment. This position had jurisdiction over federal district courts in a very powerful and influential part of the country—New York, Connecticut, and Vermont. There was strong opposition to Marshall's appointment among Senators from southern states whose tactics delayed his appointment for months.

Marshall served at the appellate level for four years and wrote 112 opinions, none of which was reversed by the Supreme Court. In fact, several of Marshall's dissenting opinions written in his capacity as Circuit Court Judge were eventually adopted by a majority of the Supreme Court. His opinions supported academic freedom, the right to a fair trial, and the right of civil rights demonstrators to picket and protest.

In 1965, President Lyndon B. Johnson appointed Marshall to be the Solicitor General of the United States. Marshall was the first African American to serve in this position. As Solicitor General, he argued cases before the Supreme Court on behalf of the United States government.

In June 1967, President Johnson nominated Marshall to the U.S. Supreme Court over the objection senators from southern states. Notwithstanding, two months after the nomination was announced, Thurgood Marshall was confirmed by a 69 to 11 vote as the first African American Justice of the United States Supreme Court. President Johnson said at the time that appointing Thurgood Marshall was "the right thing to do, the right time to do it, the right man, and the right place" (Goldman and Gallan, 1993).

During Justice Marshall's early years on the Supreme Court, he was a prominent member of the court's liberal majority, led by Chief Justice Earl Warren and later by Justice William Brennan. Justice Marshall wrote the majority opinion in *Grayned v. City of Rockford*, 408 U.S. 104 (1972), striking down an anti-picketing ordinance that had been used against civil rights demonstrators.

In the latter half of Justice Marshall's tenure on the Court, however, he was thought of as a rebel being at odds with the increasingly conservative Supreme Court of the 1970s and 1980s. He disagreed with many of the Court's decisions, including its position favoring capital punishment. Justice Marshall believed capital punishment represented cruel and unusual punishment and was a violation of the Eighth Amendment to the Constitution. He also opposed the death penalty because he believed it was disproportionately applied to minorities.

Justice Marshall is often remembered for his dissents. He is remembered best in this regard for a sixty-three page dissenting opinion in *San Antonio School District v Rodriguez*, 411 U.S. 1 (1973). The court held (in 5 to 4 vote) that the Constitution's guarantee of equal protection was not violated by the property tax system used in Texas and most other states to finance public education. Justice Marshall accused the majority of "unsupportable acquiescence in a system which deprives children in their earliest years of the chance to reach their full potential as citizens" (*San Antonio School District v Rodriguez*, 411 U.S. 1 (1973)).

Justice Marshall stepped down from the Supreme Court on June 27, 1991 because of failing health. A little more than two and a half years later, he died of heart failure on January 24, 1993. Justice Marshall left behind his second wife, Cecilia Marshall, and their two sons: Thurgood Jr., who is a lawyer, and John Marshall, who is a member of the Virginia State Police Department.



IV. Conclusion

Thurgood Marshall is primarily remembered for his accomplishments in combating discrimination against African Americans by using existing law. When he began his journey for equality and justice for all races, segregation and discrimination were an accepted way of life in every corner of America. Thurgood Marshall's victories helped to bring Americans closer together. He was truly an advocate for all and a pillar of the American justice system.

In 1992, the Thurgood Marshall Award was established by the American Bar Association. This award is given annually to recognize long-term contributions by members of the legal profession for the advancement of civil rights, civil liberties, and human rights. Associate Justice, Ruth Bader Ginsburg of the U.S. Supreme Court received the award in 1999.

Thurgood Marshall Timeline....

July 2, 1908

Thurgood Marshall is born in Baltimore, Maryland.

June 1930

Thurgood Marshall graduates with honors from Lincoln University (cum laude).

June 1933

Thurgood Marshall receives a law degree from Howard University (magna cum laude) and begins private practice in Baltimore.

1934

Thurgood Marshall takes his first case from the NAACP.

1936

Thurgood Marshall goes to work full-time for the NAACP as assistant special counsel to Charles Houston. Thurgood Marshall wins his first major civil rights case, *Murray v. Pearson*, 182 A. 590 (Md. 1936).

1938

Charles Houston with the help of Thurgood Marshall becomes the first African American to argue and win a case before the U.S. Supreme court, *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938).

1940

Thurgood Marshall wins the first of his 27 Supreme Court victories, *Chambers v. Florida*, 309 U.S. 227 (1940).

1944

Thurgood Marshall successfully argues *Smith v. Allwright*, 321 U.S. 649 (1944) overthrowing the South's "white primary" election standard. Marshall was awarded the 31st "Spingarn Medal" by the NAACP in 1946 for his exemplary work in the *Allwright* case.

1948

Marshall wins *Shelley v. Kraemer*, in which the Supreme Court strikes down the legality of racially restrictive covenants prohibiting the sale of real property to African Americans.

1950

Marshall wins Supreme Court victories in two graduate-school integration school cases, *Sweatt v. Painter* and *McLaurin v. Oklahoma State Regents*, 339 U.S. 637 (1950).

1951

Marshall is asked by President Truman to visit South Korea and Japan to investigate charges of racism in the U.S. armed forces. He reports that the general practice is one of strict segregation.

1954

Thurgood Marshall wins *Brown v. Board of Education*, 347 U.S. 483 (1954). This was the landmark case that demolished the legal basis for segregation in the United States.

1961

Thurgood Marshall becomes the second African American to serve on the U.S. Circuit Court of Appeals.

1965

Thurgood Marshall becomes the first African American to be appointed U.S. Solicitor General.

1967

Marshall becomes the first African American appointed to the U.S. Supreme Court.

1991

Justice Marshall retires from the Supreme Court.

1992

Thurgood Marshall Award is established by the American Bar Association.

January 24, 1993

Thurgood Marshall dies of heart failure at age 84.

Sources:

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